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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/955,351 | 09/17/2001 | Nathan T. Lee | 11576.56US01 | 2171 |

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EXAMINER

THALER, MICHAEL H

ART UNIT PAPER NUMBER

3731

DATE MAILED: 06/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/955.351

| Applicant(s) |
|---------------------|
| |

LEE ET AL.

Examiner

Michael Thaler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 19-21 is/are pending in the application.
4a) Of the above claim(s) 3-8, 11 and 13-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 9, 10, 12 and 19-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: Appendix A, Appendix B.

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Claims 3-8, 11 and 13-16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 8. It is noted that claims 13-16 are withdrawn by applicant from further consideration since they are labeled "Withdrawn".

Claim 21 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no basis in the original disclosure for the limitation that the circumferential struts are perpendicular to the longitudinal struts. As seen in figure 8, the angle between the circumferential struts 16 and longitudinal struts 14 is not 90 degrees.

Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 21 is confusing and inaccurate for the reasons set forth in the paragraph above.

Claims 1, 9, 10, 12 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Pinchasik et al. (5,449,373). Pinchasik et al. disclose a stent body having a plurality of adjacent circumferential support structures (each of the undulating members which form segments 102 and which are arranged in pairs) including longitudinal struts interconnected at apex portions, and circumferential connecting struts (e.g. 112) interconnecting a plurality, but not all of the adjacent circumferential support structures (since the paired circumferential support structures are directly connected together and thus are not interconnected by the circumferential connecting struts 112), the circumferential connecting struts extending between apex portions of adjacent circumferential support structures wherein said interconnected apex portions are circumferentially offset relative to one another (as seen in figures 2A, 2B and 2C). As to the indefinite language in claim 21, the angle between the Pinchasik et al. circumferential connecting struts and longitudinal struts is approximately the same as in applicant's invention. As to claim 9, the circumferential connecting struts on the left side of figure 2C of Pinchasik et al. extend in a first direction and the circumferential connecting struts on the right side of figure 2C extend in a second direction opposite the first direction.

Further, the circumferential connecting struts on the right side of figure 2C (in combination with half of a ring of cells 108) join the second and third support structures as shown in the attached appendix A. As to claim 10, some of the longitudinal struts (having length L1) are longer than other longitudinal struts (having length L2) and provide a longitudinal overlap as shown in the attached appendix B.

Claims 2, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pinchasik et al. (5,449,373) in view of Wijay (5,824,059). Pinchasik et al. fail to clearly show adjacent circumferential support structures being offset such that the apex portions on one side of a support structure are positioned intermediate the apex portions on a facing side of an adjacent support structure (claim 2) or the adjacent apex portions being circumferentially offset (claim 19). However, Wijay, in the embodiments of figures 3 and 4, teaches that adjacent circumferential support structures should be offset such that the apex portions on one side of a support structure are positioned intermediate apex portions on a facing side of an adjacent support structure to circumferentially stagger them. This staggered arrangement has the self-evident advantage of providing a more continuous support to the blood vessel around its circumference. It would have been obvious to so orient the

circumferential support structures of Pinchasik et al. so that it too would have this advantage.

Applicant's arguments filed April 27, 2006 have been fully considered but they are not persuasive. The allegation on page 7 of the response that all apex portions of Pinchasik are interconnected by flexible connectors is incorrect. A ring of diamond cells 108 of Pinchasik includes two undulating adjacent circumferential support structures (i.e. one on the left half and one on the right as seen in figure 2C). These two adjacent circumferential support structures are directly connected together and are not interconnected by the circumferential connecting struts 112.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

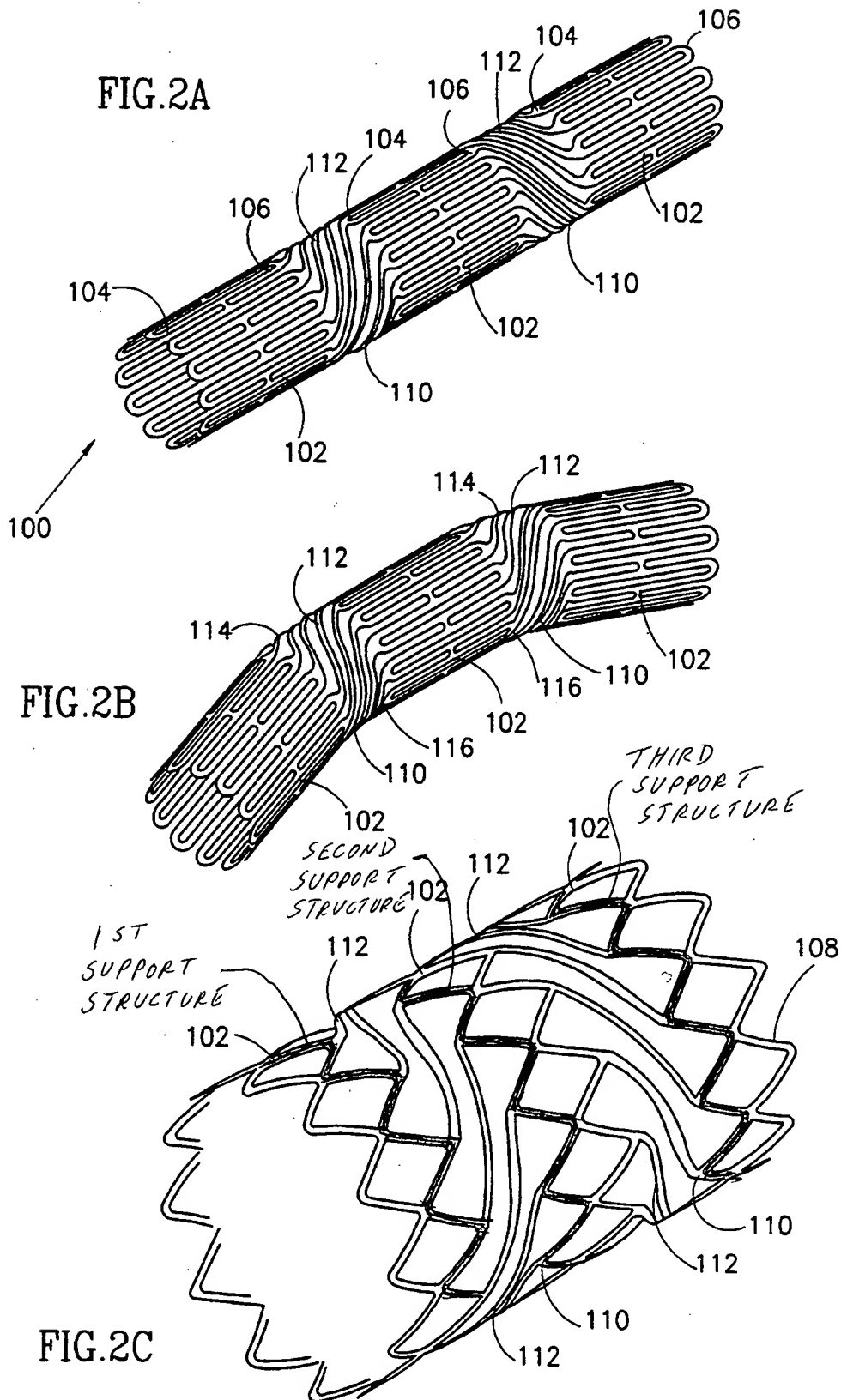
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (571)272-4704. The examiner can normally be reached Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571)272-4963. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

mht
6/23/06



MICHAEL THALER
PRIMARY EXAMINER
ART UNIT 3731



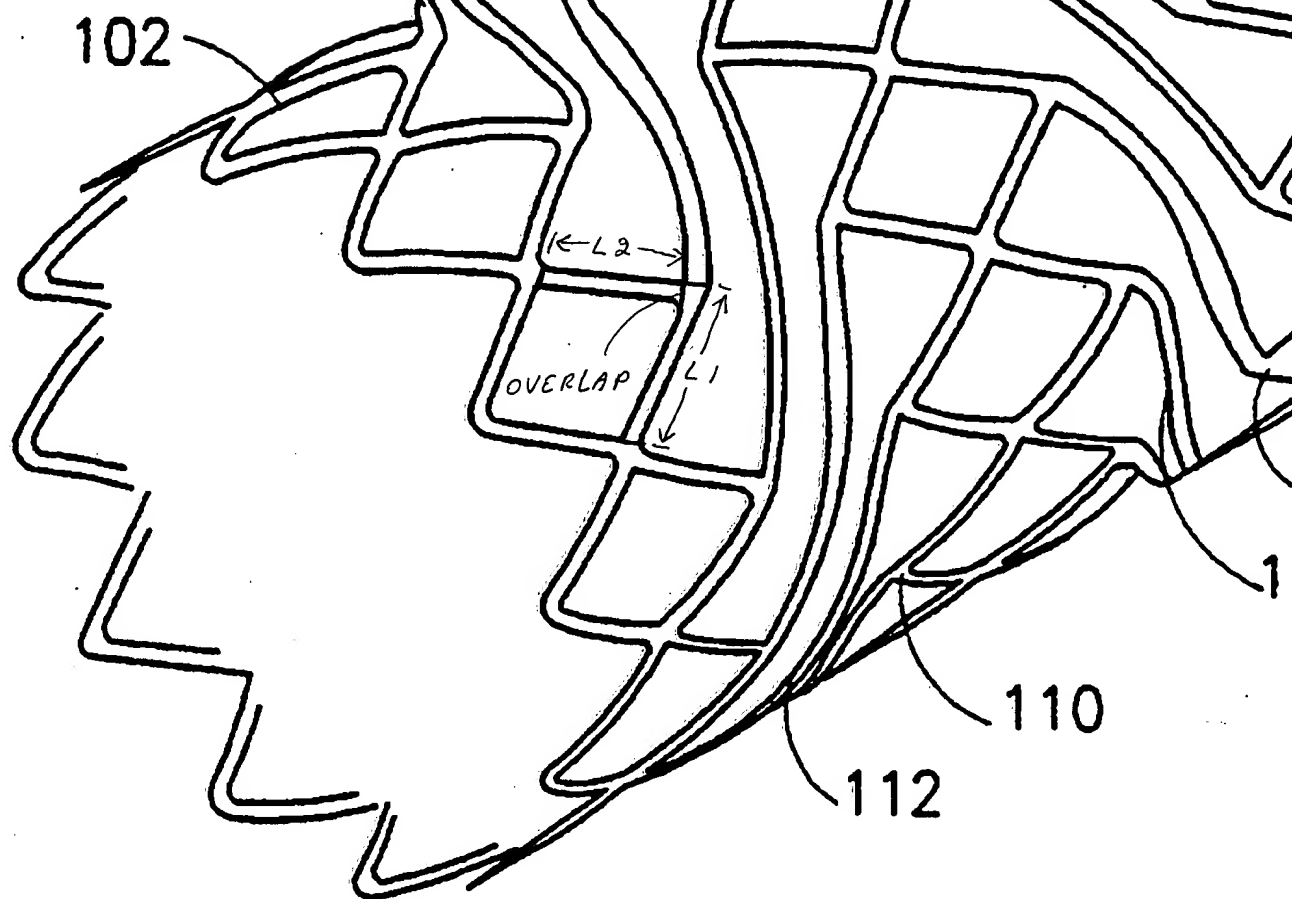


FIG.2C